

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ELAINE L. CHAO, :
SECRETARY OF LABOR, :
UNITED STATES DEPARTMENT OF LABOR, :

Plaintiff, :

v. :

Civil Action

No. 2:06-cv-00547

MICHAEL RIZZI, :
LOMIK CONSTRUCTION CORPORATION, :
and LOMIK CONSTRUCTION CORPORATION :
401(k) PROFIT SHARING PLAN :

Defendants. :

**DEFENDANTS' WITHDRAWAL OF MOTION TO OPEN DEFAULT JUDGMENT
AND PARTIES' JOINT STIPULATION**

On this 25th day of September 2006, Defendants, through the undersigned counsel, hereby withdraw the Defendants' Motion to Open Default Judgment filed with this Court on July 27, 2006.

In addition, the parties hereby stipulate that Defendants specifically do not admit to the facts or allegations contained in Paragraphs 15, 16 and the portion of Paragraph 8 which states, "has exercised discretionary authority or discretionary control respecting management of the Plan or has exercised authority or control respecting management or disposition of the Plan's assets" of the Complaint filed in the above-captioned matter.

Defendants do, however, hereby admit to the facts and allegations contained in each of the other paragraphs of the Complaint filed in the above-captioned matter, specifically including but not limited to the remainder of Paragraph 8.

Respectfully submitted,

BY: /s/ Donald R. Calaiaro

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Approved

Annette K. Ambrose

9/25/06